

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KURTISS KIDWELL,

Plaintiff,

v.

Case No.: 3:13-cv-04064-B

DISYS SOLUTIONS, INC.,

Defendant.

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, KURTISS KIDWELL, by and through his undersigned counsel, and sues the Defendant, DIGITAL INTELLIGENCE SYSTEMS, LLC d/b/a DISYS, LLC, and in support thereof states as follows:

1. Plaintiff brings this action for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. §216(b).
2. Plaintiff is an individual residing in Dallas County, Texas.
3. Defendant, DIGITAL INTELLIGENCE SYSTEMS, LLC d/b/a DISYS, LLC, is a corporation formed and existing under the laws of the State of Delaware and which maintains and operates a business in Dallas County, Texas.
4. Jurisdiction is conferred on this Court by Title 28 U.S.C. §1331 and by Title 29 U.S.C. §216(b). At all times pertinent to this complaint, DIGITAL INTELLIGENCE SYSTEMS, LLC d/b/a DISYS, LLC, was an enterprise engaged in interstate commerce. At all times pertinent to this Complaint, Defendant regularly owned and operated businesses engaged

in commerce or in the production of goods for commerce as defined by §3(r) and 3(s) of the Act, 29 U.S.C. §203(r) and 203(s). Additionally, Plaintiff was individually engaged in commerce and his work was essential to Defendant's business.

5. Venue is proper in this district under 28 U.S.C. § 1391.

6. The Plaintiff worked for Defendant from November 2012 through April 2013 as a national accounts recruiter.

7. During one or more weeks of Plaintiff's employment with Defendant, Plaintiff worked in excess of forty (40) hours (overtime hours).

8. During one or more weeks of Plaintiff's employment with Defendant wherein Plaintiff worked overtime hours, Defendant failed to pay Plaintiff one and one-half times his regular rate of pay for each overtime hour worked.

9. The acts described in the preceding paragraph violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for hours worked in excess of forty (40) per workweek. Defendant willfully violated Plaintiff's rights under the FLSA.

10. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of unpaid overtime compensation that Defendant failed to pay Plaintiff.

11. Section 216(b) of the FLSA provides that any employer who violates the statute shall be liable for unpaid overtime pay and an additional equal amount as liquidated damages. Because of Defendant's violation of the FLSA, Plaintiff is entitled to an additional amount equal to the amount of unpaid overtime compensation as liquidated damages.

12. Plaintiff is also entitled to compensation of the out-of-pocket expenses and costs of court he will have incurred in this action. Plaintiff is also entitled to reasonable and necessary attorneys fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

1. The Court assume jurisdiction of this cause and that Defendant be cited to appear;
2. The Court award damages to Plaintiff as specified above;
3. The Court award reasonable and necessary attorneys' and expert fees and costs;
4. The Court award Plaintiff pre-and post-judgment interest at the highest rates allowed.

Plaintiff further prays for any such other relief as the Court may find proper, whether at law or in equity.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted this 3rd day of February, 2014.

By:



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